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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,975	10/24/2003	Michael A. Uleski	LEAR 04140 PUS	1710

34007 7590 10/19/2004

BROOKS KUSHMAN P.C. / LEAR CORPORATION  
1000 TOWN CENTER  
TWENTY-SECOND FLOOR  
SOUTHFIELD, MI 48075-1238

EXAMINER
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ALLEN, ANDRE J

ART UNIT	PAPER NUMBER
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2855

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/692,975	ULESKI, MICHAEL A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Andre J. Allen	2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10-24-03</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: The recitation first opening in a wheel is unclear. A wheel is manufactured to include at least one hole therefore the applicant is not clear as to whether there is a second hole with respect to the recitation a "first hole" Appropriate correction is required.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-12 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10/692872. Although the conflicting claims are not identical, they are not patentably distinct from each other because the cited

application teaches all the basic features of the claimed invention. Except The clip as claimed in the claims herein is disclosed in the cited application as a fastener. Although the current application sets forth a clip, it would have been obvious to one having ordinary skill in the art at the time the invention was made to interpret the clip and fastener as elements that provide the same function of attaching a tire monitoring apparatus and valve stem together.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 2-11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanchez et al.

Regarding claim 1 Sanchez teaches a tire monitor 12 (abstract) for sensing a tire parameter (abstract), the tire monitor including a housing 40 having a second opening 32; a tire valve stem 20 that is configured to extend through the first openings 32, the valve stem having an aperture', and a clip 31 that is configured to be inserted into the aperture and engage the housing to attach together the tire monitor 12 and the valve stem 20. However Sanchez does not disclose the aperture structure. Lacking any criticality it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Sanchez with apertures and openings for the purpose of attaching a tire monitoring device to a valve stem as taught by Sanchez. ((Sanchez)(fig. 1)[0015][0017](claim 8)).

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Regarding claims 2-11 Sanchez teaches a configuration that allows air to pass through the valve and a clip structure that detains a monitor onto a valve 20. Sanchez does not teach first and second portions with respect to an aperture in the valve stem, cantilevered portions with curved sections, a tab, cylindrical surface for the housing, a pocket, ribs and a threaded fastener however since Sanchez teaches means to receive the clip structure, lacking any criticality it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the valve stem in the most appropriate and feasible configuration to detain the clip structure for the purpose of mating the tire monitoring apparatus to the valve. Moreover it does not appear that these physical features enhance the functionality of the clip, which is to mate the monitoring apparatus and stem together.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanchez in view of Loewe.

Regarding claim 12 Sanchez teaches a configuration that allows air to pass through the valve and a clip structure that detains a monitor onto a valve 20. Sanchez does not teach first and second portions with respect to an aperture in the valve stem, cantilevered portions with curved sections, a tab, cylindrical surface for the housing, a pocket, ribs and a threaded fastener however since Sanchez teaches means to receive the clip structure, lacking any criticality it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the valve stem in the most appropriate and feasible configuration to detain the clip structure for the purpose of mating the tire monitoring apparatus to the valve. Moreover it does not appear that these physical features enhance the functionality of the clip, which is to mate the monitoring apparatus and stem together.

Regarding claim 12 Sanchez does not disclose a tire inflator valve assembly incorporated with the claimed structure. Loewe teaches an inflator 10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the monitoring apparatus taught by Sanchez to include an inflator as taught by Loewe for the purpose of convenience and versatility with respect to having an on board inflation device when tire pressure that is being monitored is low.


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre J. Allen whose telephone number is 571-272-2174. The examiner can normally be reached on mon-fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andre Allen  
Patent Examiner  
Art Unit 2855

  
EDWARD LEFKOWITZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800